

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

John Kelley, et al.

Plaintiffs,

v.

Xavier Becerra, et al.,

Defendants.

Case No. 4:20-cv-00283-O

NOTICE OF SUPPLEMENTAL AUTHORITY

Earlier today, the Fifth Circuit denied panel rehearing in *DeOtte v. Nevada*, No. No. 19-10754. It also denied rehearing en banc in a 9-8 vote. The Court's order is attached.

The Fifth Circuit's mandate will issue on August 31, 2022. When the mandate issues, it will remove any res judicata effect of the *DeOtte* litigation and allow the plaintiffs to renew their challenges to the Contraceptive Mandate under the Appointments Clause, the nondelegation doctrine, and RFRA. The Court had previously dismissed those claims on res judicata grounds in its order of February 25, 2021 (ECF No. 35). The plaintiffs respectfully ask the Court to allow them to seek summary judgment on these claims and permit the parties to submit supplemental briefing on this matter.

Respectfully submitted.

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Dated: August 23, 2022

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CERTIFICATE OF SERVICE

I certify that on August 23, 2022, I served this document through CM/ECF upon:

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